



The Telecommunications Association

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JUN 14 1996
Federal Communications Commission
Office of Secretary

June 14, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

EX PARTE

Re: CC Docket No. 96-98

Dear Mr. Caton:

Pursuant to Section 1.1206(a)(2) of the Commission's Rules, this is to notify you that Jeffrey L. Sheldon and Sean A. Stokes, representing UTC, met today with Stuart Kupinsky, Robert Tanner and Augie Ros of Policy and Program Planning Division of the Common Carrier Bureau, to discuss the Commission's proposals in CC Docket No. 96-98.

The substance of UTC's presentation concerned points raised in its written comments in this docket with regard to the definition of "telecommunications Service." A written summary of the presentation is attached. The original and one copy of this notice are being filed for inclusion in this docket.

Should any questions arise concerning this notification, please communicate with the undersigned.

Cordially yours,

Sean A. Stokes
Senior Staff Attorney

cc: Stuart Kupinsky
Robert Tanner
Augie Ros
Public Inspection File

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Ex Parte

**Implementation of Telecommunications Act's
Definition of Telecommunications Services, CC Docket No. 96-98**

Definition of Telecommunications Service

The Act defines telecommunications service as follows:

The offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

I. Offered For A Fee

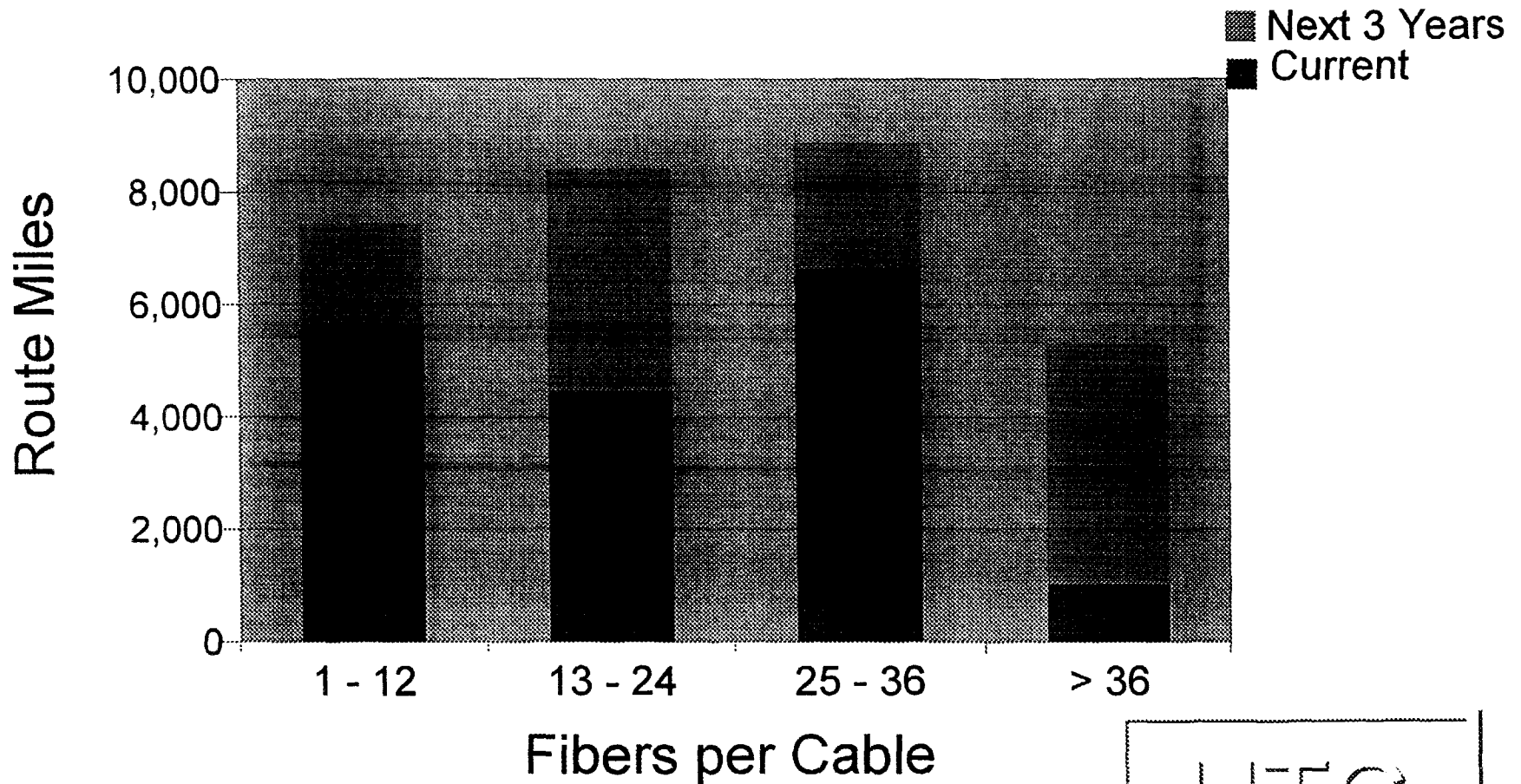
- The first element of this definition indicates that it is only intended to apply to commercial telecommunications services; that is, services that are offered for a fee.
- Utilities and pipelines that rely on private mobile and fixed communications networks to safely manage, control and coordinate essential services, which are not offered to third-parties for a fee are not telecommunication service providers.

II. Directly To The Public

- Whether an entity is acting as a telecommunications service provider depends on whether the service provider is itself directly offering service to the end-user public.
- The alternative phrase, "or services offered to such classes of users as to be effectively available directly to the public," does not alter this analysis. This clause only looks to whether the service provider is directly offering service to a substantial portion of the public.
- The mere provision of infrastructure, such as "dark fiber" or wholesale capacity to third-party carriers, would not be a "direct" offering of service to the public. An entity leasing such infrastructure or bulk capacity from a carrier's carrier and using it to provide for-profit service directly to the public would be offering "telecommunications service."

The exclusion of "carrier's carrier" arrangements from the definition of telecommunications services comports with the overall intent of the Act to encourage additional facilities-based competition.

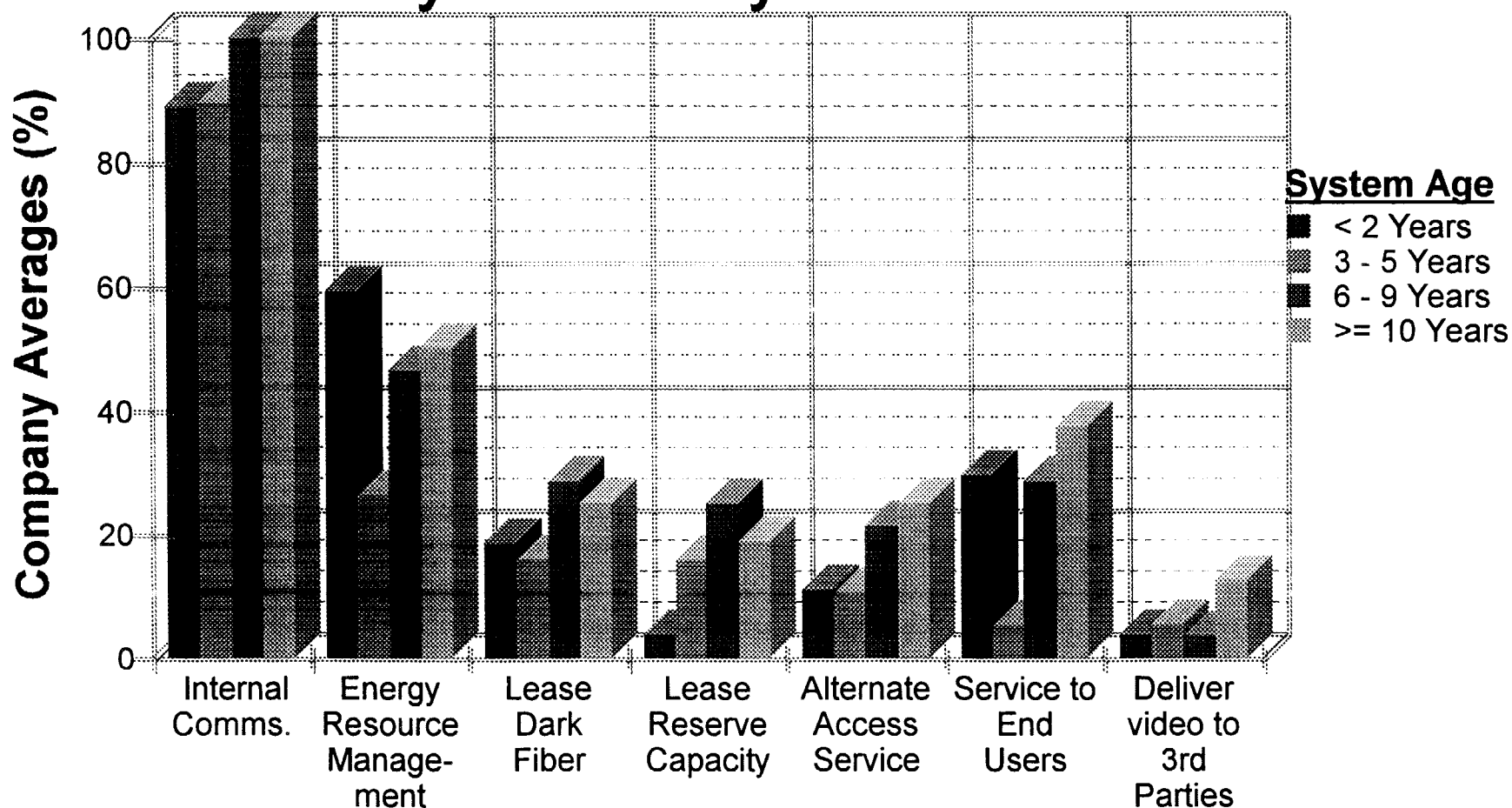
UTC 1994 Fiber Optic Survey



129 Utilities Represented

UTC

How Utility Fiber Systems Are Used



"Important" or "Very Important" Uses

1994 UTC Fiber Survey (129 Respondents)

UTC